


Title 14 California Code of Regulations

Division 7 California Integrated Waste Management Board

Chapter 4. Resource Conservation Programs

Article 1.1. Recycling Market Development Zone Revolving Loan Fund

17930. Purpose of the Revolving Loan Fund.

The Recycling Market Development Revolving Loan Program (Program) provides an alternative source of financing for recycling-based businesses,  non-profit organizations, and public entities to increase the diversion of non-hazardous solid waste from California landfills and to promote market demand for secondary and postconsumer materials. It assists the Board and local agencies comply with Public Resources Code Sections 40051 and 41780, respectively, and helps local Recycling Market Development Zones (RMDZs) meet the market development goals identified in their recycling market development plans, required by Section 17907 of this Chapter, by fostering recycling-based business development within the RMDZs.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Sections 42010 and 42023.1 of the Public Resources Code. **17931. Definitions.**

- (a) "Applicant" means an entity that is applying for a Loan.
- (b) "Application" means the information an Applicant must provide to the Board when seeking a loan.
- (c) "Board Loan Committee" or "Loan Committee" means the committee referred to and established in Section 17935.5 of this Chapter.
- (d) "Borrower" means an Applicant whose application has been approved and who has executed a Loan Agreement.
- (e) "Board" means California Integrated Waste Management Board.
- (f) "CEQA" is the California Environmental Quality Act found in Public Resources Code Sections 21000, et seq.
- (g) "Capital Improvements" means physical improvements to publicly owned land, including buildings, structures and fixtures or attachments of a permanent or semi-permanent nature, including large equipment, erected on and affixed to the land.

(h) "Designation" means a Zone Applicant has received written notification from the Board stating it has satisfactorily completed all the requirements for designation as a Recycling Market Development Zone. (i) "Infrastructure" means the basic facilities, such as sewer, water, transportation, and utility systems. (j) "Loan" means a loan from the Recycling Market Development Revolving Loan Subaccount or the California Tire Recycling Management Fund.

(k) "Loan Agreement" means a written agreement between a Borrower and the Board for a Loan made in accordance with this Article.

(l) "May" means a provision is permissive.

(m) "Must" means a provision is mandatory.

(n) "Onerous Debt" means debt with high interest rates and/or short terms that causes a negative impact on the Borrower's cash flow and jeopardizes the Borrower's ability to convert to or expand its diversion of recycled or secondary material.

(o) "Phase I Assessment" means an assessment to be completed by a specialized engineering or consulting firm that provides a professional opinion, based on obvious evidence, as to the past and potential usage, storage, handling, or disposal of materials within the property that have been or may be toxic or hazardous, or may cause violations of state and/or federal laws, rules, or regulations pertaining to soil and water quality; and to identify past and potential off-site contaminant sources that did have, or may have an adverse environmental impact on the property. The assessment may be performed at the time of loan application or at any time during the life of the loan, as determined necessary by the Board. Hazardous materials and wastes that are to be identified include those meeting the definitions of Public Resources Code Section 40141 and Health and Safety Code Sections 25117 and 25501(k).

(p) "Postconsumer waste material" is defined in Public Resources Code Section 42002(b).

(q) "Project" means the activity for which a loan is requested.

(r) "Recycling Market Development Zone" or "Zone" is a geographic area as defined by Public Resources Code Section 42002(d).

(s) "Reuse" means to take a product, rather than a material, which has served its useful life or is factory defective, and provide some new value to the product, by reconditioning, reprocessing, or some other process which makes the product usable again for its original intended purpose.

(t) "Secondary waste material" is defined in Public Resources Code Section 42002(f).

(u) "Source reduction" is defined in Public Resources Code Section 40196.

(v) "Value added product" means an item that has increased in value or changed its character or composition through a manufacturing or reuse process. Collecting, sorting and/or baling of recycled or recovered materials for convenience or ease of transportation does not constitute adding value.

(w) "Zone administrator" is defined in Section 17901(j) of this Chapter.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Sections 42023.1 and 42023.4 of the Public Resources Code.

17932. Eligible Applicants.

An eligible applicant is one whose project is located within the boundaries of the Recycling

Market Development Zone. In the case of mobile operations, the primary business location for the project must be located within the boundaries of the Recycling Market Development Zone.

Eligible applicants include:

- (a) Businesses and not-for-profit organizations who:
 - (1) Practice, or propose to practice, appropriate source reduction; or
 - (2) Use or propose to use postconsumer or secondary waste materials to produce a value added product.
- (b) Local governments or agencies who seek to provide infrastructure and/or capital improvements in support of organizations referred to Subsection (a) of this section.

Note:

Authority cited:
Section 40502 of the Public Resources Code.

Reference:

Section 42023.1 of the Public Resources Code. **17932.1 Tire Recycling Projects**
 Loans made with funds from the California Tire Recycling Management Fund may be carried out in accordance with the process and/or eligibility criteria set forth in this Article and Public Resources Code Sections 42872-42875.

Note:

Authority cited:
Sections 40502 and 42881 of the Public Resources Code.

Reference:
Sections 42872, 42873, and 42874 of the Public Resources Code.

17933. Priority Projects Priority consideration shall be given to those projects that meet the following criteria: (a) Demonstrate an ability to repay the loan; (b) Increase market demand for the secondary or postconsumer waste material used in the project (c) Satisfy additional statewide recycling market development objectives as described in Section 17909 of this Chapter; and (d) Satisfy additional priorities that are determined by the Board.

Note:

Authority cited:
Section 40502 of the Public Resources Code. **Reference:**
Section 42023.1 of the Public Resources Code.

17934. Loan Amounts.

.The maximum loan amount is three-fourths (3/4) of the cost of each project, not to exceed two million dollars (\$2,000,000).

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4(a)(4) of the Public Resources Code.

17934.1. Uses of Funds.

(a) For eligible businesses and not-for-profit organization applicants, loan funds may be used for:

- (1) equipment purchases,
- (2) real property purchases,
- (3) working capital, or
- (4) refinancing of onerous debt.

~~(b) For eligible local governments or agencies, loan funds shall be used only for publicly owned infrastructure and capital improvements located within the Zone directly support recycling-based business activities that would be eligible for a Loan.~~

Note:**Authority cited:**

Section 40502 of the Public Resources Code.

Reference:

Section 42023~~0~~.1 of the Public Resources Code.

17934.3. Fees

A non-refundable application fee shall accompany each loan application. A loan fee shall be charged upon loan closing. The Board reserves the right to periodically adjust the application and loan origination fees. The application fee and loan fee are considered part of the project cost and may be financed.

Note:**Authority cited:**

Section 40502 of the Public Resources Code.

Reference:

Section 42023.1 of the Public Resources Code.

17934.5. Interest Rate.

(a) The interest rate for loans is determined by the Board and is based on, but may vary from, the Surplus Money Investment Fund (SMIF) rate. The Board, as it deems appropriate, may adjust the interest rate semiannually, after the SMIF rate is announced by the Controller's Office in January and July of each year. The Board shall keep the interest rate

as low as possible, consistent with current market conditions and the long-term sustainability of the Recycling Market Development Revolving Loan Program.

(b) The interest rate for loans funded through leveraging programs pursuant to Article 1.2 will be negotiated between the Board, the leveraging entity, and if applicable the lender.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17935. Application Process.

(a) Applicants may submit their pre-applications and applications to the Board at any time throughout the year.

(b) Applicants shall not submit applications for approval by the Board unless a Zone has received designation or redesignation status, as defined in Section 17901(d) of this Chapter

(c) The applicant may submit a pre-application, as determined by the Board, to obtain a rapid evaluation of applicant's or a project's eligibility, prior to submitting a full application.

(d) The Applicant must submit an application with original signatures to the Board.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17935.1. Application Content.

(a) All applicants must apply in writing for a loan. The Board may make a loan application form available to assist applicants in applying for a loan. A complete application may consist of a written request containing the following items:

- (1) Characteristics of the business shall include the applicant legal name, physical address, mailing address, contact person's name and phone number, copy of business organizational documents, copies of businesses licenses and permits, business plan, key ownership and management resumes, list of all owners with percentage owned and titles, authorizations to obtain credit reports, a Recycling Market Development Zone Administrator's acknowledgement of the project; payment of a loan application fee, and certification of compliance with applicable laws and regulations to properly conduct and operate the business in California.
- (2) Demonstration of ability to repay shall include the business historical and projected financial statements and income tax returns; key management and ownership personal financial statements and income tax returns; schedules of debts; facility lease agreement or copy of deed of trust on the project site; sources and uses of all project costs. The financial projections shall include a list of assumptions under

which they were prepared that are reasonable and can be substantiated. The applicant may need to provide a feasibility study and cost break even analysis accounting for the fixed and variable costs to produce a product including the sales price of the product and the quantity of units that must be produced and sold to achieve a break even and profitable cash flow.

- (3) Demonstration of the ability to collateralize the loan shall include a detailed list of assets that will secure the loan with documentation supporting the asset value such as appraisals, purchase orders, invoices, cancelled checks, or similar documents; and ownership verification such as deeds of trust, Uniform Commercial Code financing statements, Ownership Certificates. The Board reserves the right to discount the asset value based on age and remaining expected useful life.
- (4) The applicant shall provide documentation to substantiate a matching funds requirement of twenty-five percent or more investment into the project. This shall be achieved by providing purchase orders, invoices, cancelled checks, supplemental financing commitment letters or promissory notes, executed investor agreements with evidence of transfer of funds, or other similar documents
- (5) Description of the project to be financed including the feedstock source, type, quantity and availability, the manufacturing process, end product specifications and marketability, current and projected tonnage of materials to be diverted from California landfills, public environmental reports and indemnification to discern the possible risks which may arise from hazardous waste or materials related to the project or previous operations at the site.

Additional information required from businesses and not-for-profit organizations is described in subsection (b) below. Local government or agency applicants must also provide the information requested in subsections (b) and (c) below.

(b) Applicant shall provide any further information or documentation deemed necessary by the Board to determine the creditworthiness of the Applicant, or the Applicant's ability to secure and repay the loan.

(c) Applications from local governments or agencies must contain the following additional information:

- (1) A description of the local government's or agency's activities and responsibilities;
- (2) The local government's or agency's annual financial operating statements for the previous three years;
- (3) A governing board resolution granting authority to make application to the Board for a loan commitment.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section ~~42023.1~~ 42023.4 of the Public Resources Code.

17935.2 Loan Agreement.

Each Loan Agreement shall include, but not be limited to, the following terms and conditions:

- (a) The interest rate of the loan as specified in Section 17934.5 of this Article.
- (b) The term of the loan shall not exceed 10 years when collateralized by assets other than real estate, or not more than 15 years when partially or wholly collateralized by real estate.
- (c) A description of the security and conditions.
- (d) Timeframes for complying with the conditions of loan closing and any special conditions that must be satisfied prior to, or covenants which must be complied with after, the disbursement of funds.
- (e) Identification of what is considered an event of default, including a provision that, upon failure to comply with the loan agreement, or if any information provided by the Applicant is found to be untrue, any remaining unpaid amount of the loan, with accrued interest, will be immediately due and payable, upon determination by the Board.
- (f) A provision that the Borrower agrees to waive any claims against and to indemnify and hold harmless the State of California, including the California Integrated Waste Management Board, from and against any and all claims, costs, and expenses stemming from operation, maintenance, or environmental degradation at the site.
- (g) Proof of adequate insurance for the business, naming the Board as loss payee, and when appropriate, naming the Board as additional insured, up to the amount of the loan.
- (h) Submission of borrower's and guarantor's financial statements and tax returns, ~~report~~ diversion reports, business insurance, and worker's compensation insurance, upon request by the Board.
- (i) Any other provision needed to properly analyze and document a loan deemed necessary by the Board.

Note:**Authority cited:**

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17935.3 Process For Preliminary Review.

Upon receipt, Board staff shall review each application to determine whether the Applicant and/or Applicant's project is eligible for a loan, pursuant to Section 17932 of this Article, and whether the application is complete, pursuant to Section 17935.1 of this Article. Within 10 working days of receiving the application, Board staff shall do one of the following:

- (a) Send a letter to the Applicant indicating that the application is incomplete, or that the Applicant and/or Applicant's project is ineligible for a loan, and specifying the steps, if any, which the Applicant may take to correct identified deficiencies; or
- (b) Notify the Applicant by letter that the Applicant and/or Applicant's project is eligible for a loan, and that the application is complete and shall be evaluated by the Board staff.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17935.4 Process For Board Staff Review.

(a) The Board staff shall prepare an analysis of each application. Applications which meet the following criteria shall be recommended for approval to the Loan Committee, on a first come, first served basis:

- (1) The Applicant is found creditworthy, and
- (2) The collateral and the source of repayment are appropriate for the requested loan amount; and
- (3) The Applicant has adequately demonstrated the appropriateness of the loan for use in the project as specified in Section 17935.1 of this Article.

~~(b) Those applications, which fulfill Subsection (a) (1), (2), and (3) of this section, shall be ranked in order of their ability to meet the priorities identified in Section 17933 as necessary to allocate loan funds, and then shall be presented by Board staff to the Loan Committee along with a complete analysis of the applicant and the project.~~

~~(e)~~ Where additional assistance may be needed from the Loan Committee for a determination, staff may forward those applications and analysis to the Loan Committee without a recommendation.

~~(d)~~ (c) Where the Applicant does not meet the criteria set forth in subsection (a), the Applicant will be notified in writing of its failure to meet the criteria and the process for appeal of the decision.

Note:**Authority cited:**

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17935.5. Establishment of the Loan Committee.

(a) A Loan Committee is hereby established to assist the Board in meeting the goals of the Program.

(b) The Loan Committee shall be composed of not more than nine individuals appointed by the Board.

- (c) The Loan Committee shall be comprised of a balanced cross-section of individuals from the commercial lending community, both public and private sectors, from throughout the state who demonstrate expertise in financial analysis and credit evaluation.
- (d) Members of the Loan Committee shall each be appointed to a three-year term, except that the newly added members terms may be adjusted so that a staggered schedule of terms is established where not more than four members terms shall expire during any single calendar year.
- (e) Vacancies shall be filled using the same procedures as used for the initial appointments, and shall be filled for the remaining portion of the respective terms.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17935.55 Process For Loan Committee Review

- (a) The Loan Committee shall meet monthly or as needed.
- (b) The Loan Committee shall evaluate the staff analysis of loan requests presented by Board staff pursuant to the Review Process of section 17935.4 of this Article.
- (c) The Loan Committee shall recommend applications for approval based only on their financial soundness and their ability to meet the underwriting criteria as described in Section 17935.4(a) of this Article.
- (d) The Loan Committee may advise the Board as requested on other aspects of the loan program.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17935.6 Board Approval

- (a) If the Board approves a loan, the Applicant and the Board shall enter into a Loan Agreement pursuant to the terms specified in Section 17935.2 of this Article. Funds shall be disbursed according to the terms of the Loan Agreement.
- (b) The Board's loan commitment shall be in effect for a period of 90 days following Board approval. The loan commitment may be extended, for cause, for an additional 90 days. Extension of the loan commitment beyond the second 90-day period shall occur only if agreed to by both the Board and the Applicant.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.4 of the Public Resources Code.

17936. Auditing of Expenditure of Loan Proceeds

The Board, or the Department of Finance, may audit the expenditure of the proceeds of any loan made pursuant to this Article.

Note:***Authority cited:***

Section 40502 of the Public Resources Code.

Reference:

Section 42024 of the Public Resources Code.

17937. Repealed.

17938. Repealed.

17939. Repealed.

Article 1.2. Leveraging The Recycling Market Development Zone Revolving Loan Fund

17939.1 Purpose of Leveraging the Revolving Loan Fund

The purpose of leveraging Board funds in the Recycling Market Development Revolving Loan Subaccount (Subaccount) is to increase the funding for loans to recycling-based businesses and to promote the long-term sustainability of the Recycling Market Development Revolving Loan Program. Subaccount funds may be used to stimulate more lending by private banks, public institutions and non-profit organizations than the Board could make on its own to recycling-based businesses.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 42023.1, 42023.6, and 42024 of the Public Resources Code.

17939.2 Definition

“Leverage” and “leveraging” means the expenditure, lending, investment or other uses of funds from the Recycling Market Development Revolving Loan Program Subaccount (Public Resources Code Section 42023.1) or the California Tire Recycling Management Fund (Public Resources Code Section 42885) in a manner that generates or facilitates the generation of financial capital that is made available as loans to borrowers eligible for loans under the Board’s Recycling Market Development Revolving Loan Program as described in Article 1.1 of this Chapter. Leveraging programs increase the number and value of loans for specified purposes beyond that which the Board, acting alone, could make. Typical examples of leveraging include, without limitation, pooling funds by multiple entities under specified arrangements to create a greater supply of loan capital for eligible borrowers, loan guarantee programs where an entity guarantees all or a portion of an eligible loan, and insurance where an entity assures that a loan will be repaid in a timely manner.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Sections 40506.1, 42023.1, 42023.6 and 42024 of the Public Resources Code.

17939.3 Types of Leveraging Entities and ProgramsThe types of leveraging programs in which the Board may participate, and financing entities with which the Board may contract, include but are not limited to:

- (a) The Capital Access Program, that provides loan default insurance as a credit enhancement, pursuant to Public Resources Code 42023.6.
- (b) The State Small Business Loan Guarantee program, that provides a state guarantee to entice bank and non-bank entities to lend to California small businesses, pursuant to California Corporations Code section 14000 et seq.
- (c) Financial Development Corporations (FDC) that issue state loan guarantees, pursuant to California Corporations Code section 14000 et seq.
- (d) Community Development Entities (CDE) for access to the New Markets Tax Credit (NMTC) program, pursuant to Title 1, Subtitle C, Section 121 of the Community Renewal Tax Relief Act of 2000.
- (e) Community Development Financial Institutions (CDFI) for access to the Equity Equivalent Investment (EEI) and Program-Related Investment (PRI) programs, pursuant to Title 12, Chapter 47, Subchapter 1, Section 4701 et seq. of the United States Code
- ~~(f)–~~
- ~~(g) Other.~~

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Sections 42023.1, 42023.6, and 42024 of the Public Resources Code,

17939.4 Leveraging Activities

The Board may initiate, coordinate or participate in activities, either directly or indirectly, in partnership with public, non-profit or private entities, or by itself, that leverage Recycling Market Development Revolving Loan Program Subaccount (Subaccount) funds. The leveraging of Subaccount funds may include, but is not limited to, the transfer and/or encumbrance of Subaccount funds for leveraging; the establishment of trust accounts for the receipt, retention and expenditure of funds designated for leveraging; the pooling of Subaccount funds with other individual or multiple entities under specified arrangements; the use of Subaccount funds in support of loan guarantee programs, where an entity guarantees all or a portion of an eligible loan, or as insurance where an entity assures that a loan will be repaid in a timely manner; the use of Subaccount funds for grants or loans to public, private or non-profit organizations to implement leveraging programs; and the acceptance of funds from investors and institutions.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Sections 42023.1, and 42023.6 and 42024 of the Public Resources Code.

17939.5 Loan Sale

(a) The Board may sell loans, either in bulk quantity or individually; in whole or in part; on a recourse or non-recourse basis; on an advance commitment, forward, or participation basis; and may retain or relinquish the servicing rights; (b) the Board shall not sell its loans if the loan sale results in more than a twenty-five percent (25%) discount of the principal amount, excluding any expenses or reserves required as a condition of the loan sale; and (c) all proceeds received from the sale of loans shall be deposited into the Recycling Market Development Revolving Loan Program Subaccount.

Note:

Authority cited:

Section 40502 of the Public Resources Code.

Reference:

Section 40506.1 _of the Public Resources Code.